



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER OF PATENTS AND TRADEMARKS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/311,611	05/13/1999	FRANK B. NORMAN	SWA-3.2.016/	1463

26345 7590 05/13/2003

GIBBONS, DEL DEO, DOLAN, GRIFFINGER & VECCHIONE
1 RIVERFRONT PLAZA
NEWARK, NJ 07102-5497

EXAMINER

GRANT, CHRISTOPHER C

ART UNIT	PAPER NUMBER
----------	--------------

2611

DATE MAILED: 05/13/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/311,611

Applicant(s)

NORMAN, FRANK B.

Examiner

Christopher Grant

Art Unit

2611

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE ____ MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 February 0203.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 22-36 and 38-40 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 22-36 and 38-40 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. ____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☒ Interview Summary (PTO-413) Paper No(s). ____.
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 6) ☐ Other: _____

DETAILED ACTION

Response to Arguments

1. Applicant's request for reconsideration (submitted 2/13/2003) of the finality of the rejection of the last Office action is persuasive and, therefore, the finality of that action is withdrawn.

The Examiner agrees that provisional application 60/004,575 does not appear to contain the Internet subject matter that is present in the related Patent 6,006,257. However, the claims are now rejected over Aras and **Raymond** et al. (5,579,367).

Drawings

1. The proposed drawing correction and/or the proposed substitute sheets of drawings, filed on 11/27/2002 have been disapproved because they introduce new matter into the drawings. 37 CFR 1.121(a)(6) states that no amendment may introduce new matter into the disclosure of an application. The original disclosure does not support the showing of a database (38) connected to a DBS server (30) now illustrated in amended figure 3.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person

Art Unit: 2611

having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 22-36 and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over Aras et al. (Aras) in view of Raymond et al. (Raymond) (5,579,367).

Considering claims 22, 25, 33 and 38-39, Aras discloses a method and corresponding apparatus for monitoring a direct broadcast satellite (DBS) service subscriber's station to obtain audience rating measurements indicative of the DBS subscriber's viewing habits (BCT), comprising the steps of:

- a) connecting a DBS subscriber station (111) to first network interface (1557, figure 15) (see col. 25, lines 7-17, col. 26, lines 33-41, col. 12, lines 40-54, col. 6, lines 30-44, col. 24, lines 29-42);
- b) connecting a DBS server (101, 103, 121-BCC) to a second network interface necessary for communication over the local network (figure 4B);
- c) transmitting a query message over the network from the DBS server to the subscriber's station; (col. 17, lines 57-63); and
- d) enabling the service provider subscriber's station to respond to the query message by sending back statistics (behavior collection table, BCT) accumulated by the subscriber's station (and stored at the subscriber's station) to the DBS server (101,103,121), the statistics being related to the broadcast viewed by the subscriber (see the entire reference including but not limited to col. 12, line 40 - col. 14, line 24 and col. 17, lines 57-63).

Although Aras discloses communication over the Internet (at col. 26, lines 40-41) and a local distribution network separate from the satellite network (figure 4B), he fails to specifically disclose providing a full-time communication path between the first and second Internet

Art Unit: 2611

interfaces involving an ISP and coordinating subscriber activities with schedule information as recited in the claims.

Raymond discloses a satellite receiver (30) in communication with satellite server (12) via satellite network (16,17,18) and in full-time communication with the satellite server (12) via an Internet network (col. 2, lines 33-44). An Internet interface at server (12), an Internet interface at receiver (30) and an Internet service provider (ISP) are all necessary components for communicating over the Internet. Raymond's system enables the receiver (30) to receive television programs from server (12) and the server (12) monitors operations at the receiver (30) via the Internet. The Internet communication provides bi-directional communication between the receiver (30) and the server (12). See the entire reference including but not limited to figure 1 and col. 2, lines 11-64.

In Aras, a central facility (rating agency, content provider etc.) collects, collates, analyzes and processes the data retrieved from viewers for statistical purposes. The data collected are in a coded form as illustrated in figure 10. Therefore, at the central facility the data is collated or analyzed to determine or identify the programs watched. See the entire reference including but not limited to col. 1, line 50 – col. 2, line 56, col. 12, line 40 – col. 13, line 23, and col. 26, line 44 – col. 27, line 14.

It would have been obvious to one of ordinary skill in the art to modify Aras' system to include providing a full-time communication path between the first and second Internet interfaces and an ISP, as taught by Raymond, for the advantages of providing bi-directional communication between the server and the receiver and monitoring of receiver operations by the server in a unidirectional satellite system.

Additionally, it would have been obvious to one of ordinary skill in the art to modify the combined systems of Aras and Raymond to include coordinating subscriber activities with schedule information for the typical advantage of collating and/or analyzing viewers' data to determine or identify the programs watched by the viewers for statistical purposes.

Claims 23, 24, 34 and 36 are met by the combined systems of Aras and Raymond, wherein Aras discloses periodic transmission of the table or the table requested by the behavior collection center (BCC) when the data table is nearing full or any combination thereof in col. 17, lines 57-62.

Considering claim 26, the combined systems of Aras and Raymond disclose that the behavior collection table (BCT) comprises turn on (power on), tuned channel, time and channel identification when changed, mute, turn off (power off), any combination of the above and timer events (See Aras at col. 14, lines 7-24).

However, the combined systems of Aras and Raymond fail to specifically disclose a time when the sound muting is applied and time when the sound muting is canceled as recited in the claim.

Collecting information about the time when the sound muting is applied and the time when the sound muting is canceled is more detailed than just collecting general mute information. The advantage of collecting more information is that a wide variety and/or large sample of subscriber viewing habits increases the accuracy of the statistical analysis performed

Art Unit: 2611

by television market researchers (i.e. analyzing viewing habits information for determining the cost and effectiveness of television programs and commercials).

It would have been obvious to one of ordinary skill in the art to modify the combined systems of Aras and Raymond to include any viewing habit, such as a time when the sound muting is applied and time when the sound muting is canceled, because a wide variety and/or large sample of subscriber viewing habits increases the accuracy of the statistical analysis performed by television market researchers (i.e. analyzing viewing habits information for determining the cost and effectiveness of television programs and commercials).

Claim 27 is met by the combined systems of Aras and Raymond, wherein Aras discloses that the collected data table may be reported to the BCC on the fly (i.e. real time) in col. 17, lines 57-62.

Claims 28-30 are met by the combined systems of Aras and Raymond, wherein Aras discloses periodic transmission of the table or the table requested by the behavior collection center (BCC) when the data table is nearing full or any combination thereof in col. 17, lines 57-62.

As for claim 31, the combined systems of Aras and Raymond fail to specifically disclose posting the information to a World Wide Web page and the data collection point retrieves the information from the World Wide Web page on a periodic basis as recited in the claim.

The examiner takes Official Notice that it is notoriously well known in the art for a first computing station (such as a subscriber terminal) to post information to a World Wide Web page and having a second computing station (such as a data collection point) to retrieve the information from the World Wide Web page on a periodic basis. The advantages of this procedure are (1) it provides a central location for posting and retrieving data that is accessible to numerous users/vendors; (2) it utilizes a readily available technology; and (3) it is easy to implement.

It would have been obvious to one of ordinary skill in the art to modify the combined systems of Aras and Raymond to include posting the information to a World Wide Web page and having the data collection point to retrieve the information from the World Wide Web page on a periodic basis, for the advantages of providing a central location for posting and retrieving data that is accessible to numerous users/vendors and utilizing a readily available and easy to use technology.

Claim 32 is met by the combined systems of Aras and Raymond, wherein Aras discloses transferring information to the data collection point (BCC) in response to the query message received from the data collection point (Aras; col. 17, lines 57-63) via the Internet (Raymond).

Claim 35 is met by the combined systems of Aras and Raymond, wherein Aras discloses that the collected data table may be reported to the BCC on the fly (i.e. as the information is created) in col. 17, lines 57-62.

As for claim 40, the combined systems of Aras and Raymond fail to specifically disclose posting the information to a World Wide Web page and the data collection point retrieves the information from the World Wide Web page on a periodic basis as recited in the claim.

The examiner takes Official Notice that it is notoriously well known in the art for a first computing station (such as a subscriber terminal) to post information to a World Wide Web page and having a second computing station (such as a data collection point) to retrieve the information from the World Wide Web page on a periodic basis. The advantages of this procedure are (1) it provides a central location for posting and retrieving data that is accessible to numerous users/vendors; (2) it utilizes a readily available technology; and (3) it is easy to implement.

It would have been obvious to one of ordinary skill in the art to modify the combined systems of Aras and Raymond to include posting the information to a World Wide Web page and having the data collection point to retrieve the information from the World Wide Web page on a periodic basis, for the advantages of providing a central location for posting and retrieving data that is accessible to numerous users/vendors and utilizing a readily available and easy to use technology.

Response to Previous Arguments

4. Applicant's arguments submitted 10/23/02 have been fully considered.
 - a) Applicant argues that “**However, the Examiner takes no official notice as to when that became notoriously well known**” on page 10 (last paragraph) of the amendment submitted 10/23/02.

Art Unit: 2611

(Response) First, the Examiner contends that the Internet and/or the World Wide Web were widely known before the effective filing date (6/24/1996) of Applicant's invention. It is a fact that the Internet and/or the World Wide Web involves one computing station (such as a subscriber terminal) posting information to a Web page and another computing station (such as a data collection point) retrieving the information from the Web page on a periodic or non-periodic basis.

Secondly, Dasan (newly cited) discloses a first computing station that posts information to a Web page and a second computing station that retrieves the information from the Web page on a periodic basis.

For all reasons given above, the Examiner concludes that Applicant's arguments are not persuasive.

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Wagner et al., Matthews et al, and Hidary et al. show a satellite/cable terminal receiving video from a cable/satellite server via cable or satellite network and the satellite/cable terminal in communication with the server via the Internet.

6. The following are suggested formats for either a Certificate of Mailing or Certificate of Transmission under 37 CFR 1.8(a). The certification may be included with all correspondence concerning this application or proceeding to establish a date of mailing or transmission under 37 CFR 1.8(a). Proper use of this procedure will result in such communication being considered as timely if the established date is within the required period for reply. The Certificate should be signed by the individual actually depositing or transmitting the correspondence or by an

Art Unit: 2611

individual who, upon information and belief, expects the correspondence to be mailed or transmitted in the normal course of business by another no later than the date indicated.

Certificate of Mailing

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to:

Assistant Commissioner for Patents
Washington, D.C. 20231

on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Certificate of Transmission

I hereby certify that this correspondence is being facsimile transmitted to the United States Patent and Trademark Office, Fax No. (703) ____ - ____ on _____.
(Date)

Typed or printed name of person signing this certificate:

Signature: _____

Please refer to 37 CFR 1.6(d) and 1.8(a)(2) for filing limitations concerning facsimile transmissions and mailing, respectively.

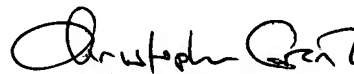
7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher Grant whose telephone number is (703) 305 4755.

The examiner can normally be reached on Monday-Friday 8:00am - 5:30pm.

Art Unit: 2611

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Andrew Faile can be reached on (703) 305-4380. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 872 9314 for regular communications and (703) 872 9314 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 305-4700.



Christopher Grant
Primary Examiner
Art Unit 2611

CG
May 7, 2003

Interview Summary	Application No.	Applicant(s)	
	09/311,611	NORMAN, FRANK B.	
	Examiner	Art Unit	
	Christopher Grant	2611	

All participants (applicant, applicant's representative, PTO personnel):

(1) Christopher Grant. (3)_____.

(2) Robert Hess. (4)_____.

Date of Interview: 07 May 2003.

Type: a) ☒ Telephonic b) ☐ Video Conference
c) ☐ Personal [copy given to: 1) ☐ applicant 2) ☐ applicant's representative]

Exhibit shown or demonstration conducted: d) ☐ Yes e) ☒ No.
If Yes, brief description: _____.

Claim(s) discussed: none.

Identification of prior art discussed: Slezak.

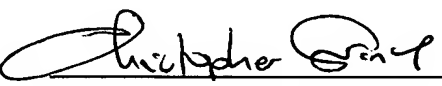
Agreement with respect to the claims f) ☐ was reached. g) ☐ was not reached. h) ☒ N/A.

Substance of Interview including description of the general nature of what was agreed to if an agreement was reached, or any other comments: The Examiner informed Robert Hess that the response filed 2/13/2003 is persuasive and the final rejection has been withdrawn. The Examiner informed Robert Hess that a new ground of rejection has been made in a non-final Office Action.

(A fuller description, if necessary, and a copy of the amendments which the examiner agreed would render the claims allowable, if available, must be attached. Also, where no copy of the amendments that would render the claims allowable is available, a summary thereof must be attached.)

THE FORMAL WRITTEN REPLY TO THE LAST OFFICE ACTION MUST INCLUDE THE SUBSTANCE OF THE INTERVIEW. (See MPEP Section 713.04). If a reply to the last Office action has already been filed, APPLICANT IS GIVEN ONE MONTH FROM THIS INTERVIEW DATE TO FILE A STATEMENT OF THE SUBSTANCE OF THE INTERVIEW. See Summary of Record of Interview requirements on reverse side or on attached sheet.

Examiner Note: You must sign this form unless it is an Attachment to a signed Office action.


Examiner's signature, if required

Summary of Record of Interview Requirements

Manual of Patent Examining Procedure (MPEP), Section 713.04, Substance of Interview Must be Made of Record

A complete written statement as to the substance of any face-to-face, video conference, or telephone interview with regard to an application must be made of record in the application whether or not an agreement with the examiner was reached at the interview.

Title 37 Code of Federal Regulations (CFR) § 1.133 Interviews

Paragraph (b)

In every instance where reconsideration is requested in view of an interview with an examiner, a complete written statement of the reasons presented at the interview as warranting favorable action must be filed by the applicant. An interview does not remove the necessity for reply to Office action as specified in §§ 1.111, 1.135. (35 U.S.C. 132)

37 CFR §1.2 Business to be transacted in writing.

All business with the Patent or Trademark Office should be transacted in writing. The personal attendance of applicants or their attorneys or agents at the Patent and Trademark Office is unnecessary. The action of the Patent and Trademark Office will be based exclusively on the written record in the Office. No attention will be paid to any alleged oral promise, stipulation, or understanding in relation to which there is disagreement or doubt.

The action of the Patent and Trademark Office cannot be based exclusively on the written record in the Office if that record is itself incomplete through the failure to record the substance of interviews.

It is the responsibility of the applicant or the attorney or agent to make the substance of an interview of record in the application file, unless the examiner indicates he or she will do so. It is the examiner's responsibility to see that such a record is made and to correct material inaccuracies which bear directly on the question of patentability.

Examiners must complete an Interview Summary Form for each interview held where a matter of substance has been discussed during the interview by checking the appropriate boxes and filling in the blanks. Discussions regarding only procedural matters, directed solely to restriction requirements for which interview recordation is otherwise provided for in Section 812.01 of the Manual of Patent Examining Procedure, or pointing out typographical errors or unreadable script in Office actions or the like, are excluded from the interview recordation procedures below. Where the substance of an interview is completely recorded in an Examiners Amendment, no separate Interview Summary Record is required.

The Interview Summary Form shall be given an appropriate Paper No., placed in the right hand portion of the file, and listed on the "Contents" section of the file wrapper. In a personal interview, a duplicate of the Form is given to the applicant (or attorney or agent) at the conclusion of the interview. In the case of a telephone or video-conference interview, the copy is mailed to the applicant's correspondence address either with or prior to the next official communication. If additional correspondence from the examiner is not likely before an allowance or if other circumstances dictate, the Form should be mailed promptly after the interview rather than with the next official communication.

The Form provides for recordation of the following information:

- Application Number (Series Code and Serial Number)
- Name of applicant
- Name of examiner
- Date of interview
- Type of interview (telephonic, video-conference, or personal)
- Name of participant(s) (applicant, attorney or agent, examiner, other PTO personnel, etc.)
- An indication whether or not an exhibit was shown or a demonstration conducted
- An identification of the specific prior art discussed
- An indication whether an agreement was reached and if so, a description of the general nature of the agreement (may be by attachment of a copy of amendments or claims agreed as being allowable). Note: Agreement as to allowability is tentative and does not restrict further action by the examiner to the contrary.
- The signature of the examiner who conducted the interview (if Form is not an attachment to a signed Office action)

It is desirable that the examiner orally remind the applicant of his or her obligation to record the substance of the interview of each case. It should be noted, however, that the Interview Summary Form will not normally be considered a complete and proper recordation of the interview unless it includes, or is supplemented by the applicant or the examiner to include, all of the applicable items required below concerning the substance of the interview.

A complete and proper recordation of the substance of any interview should include at least the following applicable items:

- 1) A brief description of the nature of any exhibit shown or any demonstration conducted,
- 2) an identification of the claims discussed,
- 3) an identification of the specific prior art discussed,
- 4) an identification of the principal proposed amendments of a substantive nature discussed, unless these are already described on the Interview Summary Form completed by the Examiner,
- 5) a brief identification of the general thrust of the principal arguments presented to the examiner,
(The identification of arguments need not be lengthy or elaborate. A verbatim or highly detailed description of the arguments is not required. The identification of the arguments is sufficient if the general nature or thrust of the principal arguments made to the examiner can be understood in the context of the application file. Of course, the applicant may desire to emphasize and fully describe those arguments which he or she feels were or might be persuasive to the examiner.)
- 6) a general indication of any other pertinent matters discussed, and
- 7) if appropriate, the general results or outcome of the interview unless already described in the Interview Summary Form completed by the examiner.

Examiners are expected to carefully review the applicant's record of the substance of an interview. If the record is not complete and accurate, the examiner will give the applicant an extendable one month time period to correct the record.

Examiner to Check for Accuracy

If the claims are allowable for other reasons of record, the examiner should send a letter setting forth the examiner's version of the statement attributed to him or her. If the record is complete and accurate, the examiner should place the indication, "Interview Record OK" on the paper recording the substance of the interview along with the date and the examiner's initials.